

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL PATTON,

Case No. 1:20-cv-01498-DAD-SKO

Plaintiff,

**ORDER MODIFYING SCHEDULING
ORDER, SETTING TRIAL DATE, AND
CONTINUING SETTLEMENT
CONFERENCE**

v.

ESA P PORTFOLIO, L.L.C., and
ESA MANAGEMENT, LLC,

(Doc. 61)

Defendants.

On April 28, 2022, Defendants filed a motion to modify the scheduling order and continue the settlement conference, and sought an order shortening the time to hear the motion. (Docs. 60, 61.) By order entered May 2, 2022, the Court granted Defendants' request to shorten time and set an expedited briefing schedule for the motion. (Doc. 64.) On May 6, 2022, Plaintiff filed a response to Defendants' motion. (Doc. 65.) On May 12, 2022, Defendants filed their reply. (Doc. 66.)

Defendants' position is that the now-expired fact and expert discovery deadlines should be extended by approximately three to four months from the filing of the motion due to receipt of medical records after the close of fact discovery, difficulties scheduling third-party depositions, and delays caused by COVID-19.¹ (*See* Doc. 61-1 at 2, 3–5.) With regard to the reopening of expert discovery, Defendants request that “[e]xperts should be allowed to supplement their reports and the parties should be allowed to take the depositions of experts who supplement their reports.” (*Id.* at

¹ Fact discovery closed on December 2, 2021 (*see* Doc. 33), and expert discovery closed on April 1, 2022 (*see* Doc. 55).

5.) Defendants also seek to continue the settlement conference, currently set for June 7, 2022, asserting that they cannot meaningfully participate in a settlement conference without having conducted necessary discovery. (*See id.* at 6.)

Plaintiff, for the most part, does not oppose reopening fact and expert discovery and modifying the existing schedule, nor does he object to continuing the settlement conference. (*See* Doc. 66 at 1–4.) Specifically, Plaintiff has no objections so long as his “place in line” with respect to a potential trial date “is not jeopardized,” as no trial has been set in this matter yet. (*Id.* at 2.) Plaintiff also requests that any reopening of expert discovery be limited such that “any amendment [to expert reports] is *based solely on newly discovered evidence or information*,” and that the expired expert-designation deadlines not be reset. (*See id.* at 4 (emphasis in original).)

Turning first to Defendants’ motion to continue the settlement conference, the Court will grant the motion, as Plaintiff does not object. Next, taking into consideration Plaintiff’s limited objections, the Court will also grant Defendants’ motion to modify the scheduling order, and a trial date in this matter will be set. As for the scope of the reopened expert discovery window, the Court will permit the amendment of expert reports, but the expert designation deadlines will not be reset, absent a showing of good cause, as it does not appear that Defendants are making such a request. (*See* Doc. 66-1 at 5 (requesting only that experts “be allowed to supplement their reports” and that the parties “be allowed to take the depositions of experts who supplement their reports”); Doc. 61-3, Proposed Order (no proposed deadlines for expert disclosures).)

In sum, the Court finds good cause to modify the scheduling order and continue the settlement conference. *See* Fed. R. Civ. P. 16(b)(4). Accordingly, IT IS HEREBY ORDERED as follows:

1. Defendants’ motion to modify the scheduling order and continue the settlement conference (Doc. 61) is GRANTED;
2. The Scheduling Order (*see* Docs. 33, 55) is MODIFIED as follows:

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Matter	Current Date	Continued Date
Non-Expert Discovery	December 2, 2021	July 29, 2022
Expert Discovery	April 1, 2022	August 29, 2022
Non-Dispositive Motion Filing Deadline	May 2, 2022	September 30, 2022
Non-Dispositive Motion Hearing Deadline	June 1, 2022	November 9, 2022 ²
Dispositive Motion Filing Deadline	May 2, 2022	September 30, 2022
Dispositive Motion Hearing Deadline	According to the Local Rules	November 15, 2022 ³
Pretrial Conference	October 17, 2022 at 2:30 p.m.	January 9, 2023 at 2:30 p.m.

3. The trial is SET for March 14, 2023, at 8:30 a.m., in Courtroom 5 before the Honorable Dale A. Drozd, United States District Judge; and
4. The Settlement Conference, currently set for June 7, 2022, and the telephonic Pre-Settlement Conference, currently set for June 1, 2022, are VACATED. By no later than May 31, 2022, the parties SHALL file a joint statement 1) confirming that they have met and conferred, and 2) proposing three or four dates on which the settlement conference (held on Tuesdays and Thursdays at 10:00 a.m.) will be reset.

IT IS SO ORDERED.

Dated: May 16, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

² Magistrate Judge Sheila K. Oberto hears civil motions on Wednesdays at 9:30 a.m. The Court notes that the Local Rules were amended on March 1, 2022, to require at least five weeks between the motion filing and hearing date. See E.D. Cal. L.R. 230(b). The parties are directed to review Local Rule 230 regarding when opposition and reply briefs are due.

³ District Judge Dale A. Drozd hears civil motions on the first and third Tuesdays of every month at 9:30 a.m.